



2. On December 13, 2013, Culbertson filed a Notice of Appeal [Dkt. 71]. Culbertson's appeal from the Order on Attorney's Fees is currently pending in the United States Court of Appeals for the Fifth Circuit.

3. On February 10, 2014, Palmer filed an "Application for Turnover Order" [Dkt. 78] requesting the Court order Culbertson to turn over a wide variety of assets.

4. On February 17, 2014, this Court signed an "Order to Turn Over" [Dkt. 79] ordering Culbertson to turn over certain assets to the United States Marshal. But the Order to Turn Over was not entered until February 19, 2014 at 2:24 p.m., when counsel for the parties in the case first received CM/ECF notification.

5. After Palmer filed her Application for Turnover Order on February 10, 2014, but prior to February 19, 2014, Culbertson engaged the undersigned counsel to assist her in (1) superseding enforcement of the Court's Order on Attorneys' Fees pending her appeal to the United States Court of Appeals for the Fifth Circuit, and (2) posting the requisite supersedeas bond, or cash in lieu thereof, as security.

6. Pursuant to Local Rule 7.3, Culbertson and her counsel believed the Palmer's Application for Turnover Order would not be submitted to the Court until 21 days after it was filed, i.e., March 3, 2014, giving Culbertson time to file this motion on a non-emergency basis. However, because the Court signed the Order to Turn Over on February 17, 2014 and entered it on February 19, 2014, Culbertson seeks the relief requested herein on an emergency basis, especially considering the Order to Turn Over does not prescribe a date certain or other deadline by which Culbertson must comply therewith.

**EMERGENCY MOTION FOR STAY OF EXECUTION OF JUDGMENT  
AND ORDER APPROVING AMOUNT OF SUPERSEDEAS BOND**

7. Under Rule 62(d) of the Federal Rules of Civil Procedure, if an appeal is taken, the appellant may obtain a stay by supersedeas bond. *Halliburton Energy Services v. NL Industries*, 703 F.Supp.2d 666, 669 (S.D. Tex. 2010). The purpose of a supersedeas bond is to preserve the status quo while protecting the non-appealing party's rights (i.e., Palmer's rights) pending appeal. *Id.* (quoting *Poplar Grove Planting & Refining Co. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1190-91 (5th Cir. 1979)).

8. Pursuant to Federal Rule of Civil Procedure 62(d), Culbertson hereby requests this Court approve the amount of \$82,315 as an adequate supersedeas cash deposit into the registry of the Court in lieu of a bond to supersede enforcement of the Order on Attorney's Fees pending Culbertson's appeal. This amount includes the attorneys' fees awarded against Culbertson (\$82,101), in addition to post-judgment interest accruing thereon at the rate of 0.13% per annum for two (2) years. Cash deposited into the registry of the Court is an acceptable form of a supersedeas bond. *See Williams v. Amerus Life Ins. Co.*, Civ. Action No. H-03-04692, 2006 WL 6508269 (S.D. Tex. 2006) (granting judgment debtor's motion to deposit in lieu of supersedeas bond and to stay execution of judgment) (citing *Poplar Grove Planting & Refining Co.*, 600 F.2d at 1191).

9. Culbertson is ready, willing and able to deposit \$82,315 into the Court's registry. In the event Culbertson does not succeed on her appeal to the Fifth Circuit, this amount will adequately protect Palmer.

10. Moreover, the deposit of \$82,315 will render moot the Court's Order to Turn Over. Accordingly, Culbertson requests the Court vacate the Order to Turn Over.

**PRAYER FOR RELIEF**

11. Considering the foregoing, Culbertson respectfully requests that the Court grant this emergency motion and enter an order:

a. Ordering Culbertson to make a cash deposit in lieu of a bond into the registry of the Court in the amount of \$82,315 within five (5) business days after the entry of an order from this Court;

b. Staying and enjoining the enforcement and/or collection of the "Order on Attorney's Fees" [Dkt. 69] pending the final outcome of Culbertson's appeal thereof;

c. Denying Palmer's Application for Turnover Order [Dkt. 78] as moot; and

d. Vacating the "Order to Turn Over" [Dkt. 79]

Culbertson further requests the Court to grant her any other and further relief, at law or in equity, to which she may be justly and legally entitled, and to issue all necessary writs and other process to effectuate the relief requested herein.

Respectfully submitted,

By: /s/ Michael A. Ackal, III\*\*

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\*\* With permission of and from:

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ATTORNEY-IN-CHARGE FOR  
PLAINTIFF AMANDA CULBERTSON

**CERTIFICATE OF CONFERENCE**

Prior to learning that the Court had signed the “Order to Turn Over” [Dkt. 79], on Tuesday, February 18, 2014, the undersigned counsel spoke with Kate David, counsel for Defendants, to seek an agreement on an appropriate security/supersedeas amount to suspend enforcement of the “Order on Attorney’s Fees” [Dkt. 69] pending appeal. The undersigned also followed-up with Ms. David by sending her an email, which is attached hereto as Exhibit “A.” The undersigned has not received a response from Ms. David, and the nature of the Court’s “Order to Turn Over” [Dkt. 79] has necessitated Culbertson filing this motion on an emergency basis.

/s/Michael A. Ackal, III

Michael A. Ackal, III

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on February 19, 2014, a true and correct copy of the foregoing document was served upon all counsel of record through the Court’s CM/ECF system pursuant to Federal Rule of Civil Procedure 5(b)(3) and Local Rule 5.1:

/s/Michael A. Ackal, III

Michael A. Ackal, III